84TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
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AMENDMENTS TO INTERNAL REVENUE CODES OF 1939 AND 1954

JUNE 1, 1956.—Ordered to be printed

Mr. COOPER, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H. R. 6143]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 6143) to amend the Internal Revenue Code of 1939 to provide that for taxable years beginning after May 31, 1950, certain amounts received in consideration of the transfer of patent rights shall be considered capital gain regardless of the basis upon which such amounts are paid, having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 3.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows:

On page 2 of the Senate engrossed amendments, beginning with "For" in line 5, strike out all through line 12, and in lieu thereof insert the following: *In applying section 291 (a) (relating to additions to the tax for failure to file a return) in any case to which paragraph (b) of this section applies, the term 'reasonable cause' shall include the filing of a timely incomplete return under circumstances which led the taxpayer to believe that no tax was due on amounts received under a settlement with the United States.*"

(b) The amendment made by this section shall apply with respect to taxable years ending after December 31, 1948, notwithstanding the operation of any law or rule of law (other than section 3760 of the Internal Revenue Code of 1939 or section 7121 of the Internal Revenue Code of 1954, relating to closing agreements, and other than section 3761 of the Internal Revenue Code of 1939 or section 7122 of the Internal Revenue

Code of 1954, relating to compromises). Notwithstanding the preceding sentence, no claim for credit or refund of any overpayment resulting from the amendment made by this section shall be allowed or made after the period of limitation applicable to such overpayment, except that such period shall not expire before the expiration of one year after the date of the enactment of this Act.

And the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with amendments as follows:

On page 3 of the Senate engrossed amendments, beginning with line 12, strike out all through line 24 and in lieu thereof insert the following:

"(2) If any portion of a distribution of property by a corporation to its shareholders, with respect to its stock, is a dividend solely by reason of the last sentence of subsection (a), then—

"(A) paragraph (1) shall not apply to such distribution, but

"(B) such distribution shall be considered to be a distribution which is not a dividend (whether or not otherwise a dividend) to the extent that the fair market value of such property exceeds the Subchapter A net income referred to in the last sentence of subsection (a), adjusted as provided in such sentence.

In applying this paragraph, distributions described in subparagraphs (A), (B), and (C) of paragraph (3) shall be taken into account before other distributions.

On page 4 of the Senate engrossed amendments, in line 12, strike out "1939." and in lieu thereof insert the following: *1939, except that it shall not apply to any taxable year of a shareholder which was a corporation and which filed a return for such year reporting dividends in accordance with publicly announced litigation policies of the Secretary or his delegate which had not been revoked at the time such return was filed.*

And the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 4. TRADEMARK AND TRADE NAME EXPENDITURES.

(a) Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 is hereby amended by inserting after section 176 thereof the following new section:

"SEC. 177. TRADEMARK AND TRADE NAME EXPENDITURES.

"(a) ELECTION TO AMORTIZE.—Any trademark or trade name expenditure paid or incurred during a taxable year beginning after December 31, 1955, may, at the election of the taxpayer (made in accordance with regulations prescribed by the Secretary or his delegate), be treated as a deferred expense. In computing taxable income, all expenditures paid or incurred during the taxable year which are so treated shall be allowed as a deduction

ratably over such period of not less than 60 months (beginning with the first month in such taxable year) as may be selected by the taxpayer in making such election. The expenditures so treated are expenditures properly chargeable to capital account for purposes of section 1016 (a) (1) (relating to adjustments to basis of property).

"(b) TRADEMARK AND TRADE NAME EXPENDITURES DEFINED.—For purposes of subsection (a), the term 'trademark or trade name expenditure' means any expenditure which—

"(1) is directly connected with the acquisition, protection, expansion, registration (Federal, State, or foreign), or defense of a trademark or trade name;

"(2) is chargeable to capital account; and

"(3) is not part of the consideration paid for a trademark, trade name, or business.

"(c) TIME FOR AND SCOPE OF ELECTION.—The election provided by subsection (a) shall be made within the time prescribed by law (including extensions thereof) for filing the return for the taxable year during which the expenditure is paid or incurred. The period selected by the taxpayer under subsection (a) with respect to the expenditures paid or incurred during the taxable year which are treated as deferred expenses shall be adhered to in computing his taxable income for the taxable year for which the election is made and all subsequent years.

"(d) CROSS REFERENCE.—

"For adjustments to basis of property for amounts allowed as deductions for expenditures treated as deferred expenses under this section, see section 1016 (a) (16)."

(b) The table of sections of part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 is hereby amended by inserting at the end thereof

"Sec. 177. Trademark and trade name expenditures."

(c) Subsection (a) of section 1016 of the Internal Revenue Code of 1954 (relating to adjustments to basis) is hereby amended by striking out the period at the end of paragraph (15) and inserting in lieu thereof a semicolon, and by adding at the end of such subsection the following new paragraph:

"(16) for amounts allowed as deductions for expenditures treated as deferred expenses under section 177 (relating to trademark and trade name expenditures) and resulting in a reduction of the taxpayer's taxes under this subtitle, but not less than the amounts allowable under such section for the taxable year and prior years."

And the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 5. LIVESTOCK SOLD ON ACCOUNT OF DROUGHT.

(a) Section 1033 of the Internal Revenue Code of 1954 (relating to involuntary conversions) is hereby amended by redesignating subsection (f) thereof as subsection (g) and by inserting after subsection (e) of such section the following new subsection:

"(f) LIVESTOCK SOLD ON ACCOUNT OF DROUGHT.—For purposes of this subtitle, the sale or exchange of livestock (other than poultry) held by a taxpayer for draft, breeding, or dairy purposes in excess of the number the taxpayer would sell if he followed his usual business practices shall be treated as an involuntary conversion to which this section applies if such livestock are sold or exchanged by the taxpayer solely on account of drought."

(b) The amendment made by this section shall apply with respect to taxable years ending after December 31, 1955, but only in the case of sales and exchanges of livestock after December 31, 1955.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill, and agree to the same.

JERE COOPER,
W. D. MILLS,
NOBLE J. GREGORY,
DANIEL A. REED,
THOMAS JENKINS,
Managers on the Part of the House.

HARRY F. BYRD,
By R. S. K.,
ROBT. S. KERR,
J. ALLEN FREAR, JR.,
E. D. MILLIKIN,
EDWARD MARTIN,
Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 6143) to amend the Internal Revenue Code of 1939 to provide that for taxable years beginning after May 31, 1950, certain amounts received in consideration of the transfer of patent rights shall be considered capital gain regardless of the basis upon which such amounts are paid, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Amendment No. 1: This amendment adds a new section to the House bill which amends section 106 of the Internal Revenue Code of 1939 (relating to claims against the United States involving acquisition of property). Section 106 of the 1939 Code limits the surtax applicable to individuals to 30 percent in the case of amounts received from the United States on claims involving acquisition of property. The Senate amendment would extend the application of this section to payments received from the United States arising under a contract for the construction of installations or facilities for any branch of the armed services of the United States and remaining unpaid for more than 5 years from the date such claim first accrued and paid prior to January 1950. The amendment also provides that for purposes of section 291 (a), relating to additions to the tax for failure to file a return, the term "reasonable cause" shall include the filing of a timely incomplete return under circumstances which led the taxpayer to believe that no tax was due on amounts received under a settlement with the United States.

The House recedes with an amendment. The amendment makes two changes. The first change makes it clear that the provision relating to section 291 (a) applies only to a case to which the new paragraph (b) of section 106 applies. The second change provides that the effective date provided in the Senate amendment (that is, that the amendment is to apply to taxable years ending after December 31, 1948) is to apply notwithstanding the operation of any law or rule of law (other than provisions relating to closing agreements and compromises). However, no claim for credit or refund of any overpayment resulting from the amendment is to be allowed or made after the period of limitation applicable to the overpayment, except that such period is not to expire before the expiration of 1 year after the date of the enactment of the provision.

It is the understanding of all the conferees that the action taken with respect to this amendment is not to be considered a precedent for future legislative action.

Amendment No. 2: This amendment adds a new subsection (n) (relating to certain distributions of property by corporations) to section 115 of the Internal Revenue Code of 1939. The amendment provides rules for corporate distributions to stockholders of property having a fair market value in excess of the corporate earnings and

profits. Paragraph (1) of the new subsection (n), in general, limits the amount of a corporate distribution of property which is taxable as a dividend to the amount of the earnings and profits of the distributing corporation. Paragraph (2) provides an additional rule for distributions of property made by personal holding companies. The new subsection (n) added by the Senate amendment is to be effective as if it were a part of section 115 of the Internal Revenue Code of 1939 on the date of enactment of such code. No interest is to be allowed or paid in respect of any overpayment of tax resulting from the amendment.

The House recedes with amendments. The first is a technical amendment designed to permit the continued application of the last sentence of section 115 (a) of the 1939 Code, including the taking into account sections 504 (c) and 506 of such code, in a manner consistent with the purposes of this legislation. In addition, under the conference agreement, it is provided that the amendment made to the 1939 Code is not to apply to any taxable year of a shareholder which was a corporation and which filed a return for such year reporting dividends in accordance with publicly announced litigation policies of the Secretary of the Treasury or his delegate (such as nonacquiescence of the Commissioner of Internal Revenue to decisions in litigated cases) which had not been revoked at the time such return was filed.

Paragraph (3) of the new subsection (n) provides that subsection (n) does not apply to any distribution of (A) money, (B) inventory assets, as defined in section 312 (b) (2) of the Internal Revenue Code of 1954, or (C) distributions described in section 312 (j) of the Internal Revenue Code of 1954. It is the intention of the conferees both on the part of the House and the Senate that no implication is to be drawn from this paragraph which would adversely affect a taxpayer under existing law with respect to any litigation pending or decision made as to which he was a party with respect to such types of distributions.

Amendment No. 3: This amendment provided that the tax on transportation of property imposed by the Internal Revenue Codes of 1939 and 1954 shall not apply to amounts paid for the transportation of poultry in continuous movement from the farm where the poultry was raised to a dressing plant, located within the local area of such farm, for processing. The Senate recedes.

Amendment No. 4: This amendment adds a new section 177 to the Internal Revenue Code of 1954 relating to trademark and trade name expenditures. Under the amendment, a trademark or trade name expenditure (as defined in the amendment) paid or incurred during a taxable year beginning after December 31, 1955, may, at the election of the taxpayer (made in accordance with regulations prescribed by the Secretary or his delegate) be treated as a deferred expense.

The House recedes with an amendment which makes technical and clarifying changes. As agreed to in conference, any trademark or trade name expenditure paid or incurred during a taxable year beginning after December 31, 1955, may, at the election of the taxpayer (made in accordance with regulations prescribed by the Secretary or his delegate), be treated as a deferred expense. In computing taxable income, all expenditures paid or incurred during the taxable year which are so treated are to be allowed as a deduction ratably over such period of not less than 60 months (beginning with the first

month in such taxable year) as may be selected by the taxpayer in making such election. Under the conference agreement the election with respect to any taxable year is to be made within the time prescribed by law (including extensions thereof) for filing the return for the taxable year during which the expenditure is paid or incurred. The period selected by the taxpayer for any taxable year is required to be adhered to (with respect to all expenditures to which the election for such year applies) in computing the taxable income of the taxpayer for the taxable year for which the election is made and all subsequent years. Under the conference agreement it is made clear that the expenditures covered by the bill are expenditures properly chargeable to capital account for purposes of section 1016 (a) (1) of the 1954 Code (relating to adjustments to basis of property) and that proper adjustment to basis is to be made for the amounts allowed as deductions as deferred expenses under the new section.

Amendment No. 5: This amendment adds a new subsection (f) to section 1033 of the Internal Revenue Code of 1954 (relating to involuntary conversions). The Senate amendment provided that the sale of livestock (other than poultry) held by taxpayer for draft, breeding, or dairy purposes in excess of the number the taxpayer would sell if he followed his usual business practices shall be treated as an involuntary conversion to which section 1033 applies if such livestock—

(1) Are held in an area (A) in respect to which the President determines under the act of September 30, 1950, that a major disaster exists because of drought and (B) which is found eligible by the Secretary of Agriculture for certain assistance or relief under provisions administered by the Department of Agriculture; and

(2) Are sold (whether before or after such determination) by such taxpayer solely on account of such drought.

The Senate amendment applied only with respect to taxable years beginning after December 31, 1955.

The House recedes with an amendment. Under the conference agreement the section applies if the livestock are sold or exchanged because of drought. The requirements contained in the Senate amendment with respect to the existence of a major disaster proclaimed by the President and a finding of eligibility by the Secretary of Agriculture for assistance or relief are eliminated. Under the amendment a drought is a condition which exists in an area by reason of precipitation conditions which are abnormally low for such area. Under the conference agreement the amendment applies with respect to taxable years ending after December 31, 1955, but only in the case of sales and exchanges of livestock after December 31, 1955.

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